

The U.S. Scrap Recycling Industry's Economic Impact: 2009

	Jobs	Wages	Economic Impact
Direct Impacts			
Scrap Recyclers	4,260	\$325,110,000	\$1,073,200,000
Brokers	50	\$2,790,000	\$27,660,000
Total Direct Impacts	4,310	\$327,900,000	\$1,100,860,000
Supplier Impacts			
Agriculture	451	\$13,577,219	\$78,972,416
Mining	29	\$2,234,348	\$12,246,574
Construction	85	\$3,987,356	\$8,231,140
Manufacturing	648	\$53,175,114	\$260,192,440
Transportation & Communication	350	\$29,050,522	\$118,271,304
Wholesaling	221	\$16,659,971	\$43,660,580
Retailing	33	\$960,139	\$2,196,603
Finance, Insurance & Real Estate	522	\$30,706,895	\$110,042,014
Travel & Entertainment	273	\$5,659,334	\$15,866,444
Business & Personal Services	1,219	\$68,253,577	\$125,840,724
Government	90	\$6,426,350	\$13,865,510
Total Supplier Impacts	3,920	\$216,659,898	\$789,390,000
Induced Impacts			
Agriculture	175	\$2,971,423	\$19,639,478
Mining	27	\$2,919,449	\$12,356,050
Construction	63	\$3,329,973	\$7,046,590
Manufacturing	296	\$25,550,539	\$168,641,109
Transportation & Communication	262	\$21,589,598	\$92,384,472
Wholesaling	204	\$16,261,896	\$42,786,248
Retailing	1,233	\$35,314,046	\$83,398,576
Finance, Insurance & Real Estate	924	\$59,254,835	\$289,641,202
Travel & Entertainment	957	\$20,072,077	\$62,842,076
Business & Personal Services	2,650	\$115,173,674	\$217,743,377
Government	79	\$5,805,709	\$12,809,242
Other	44	\$920,820	\$6,306,220
Total Induced Impacts	6,910	\$609,160,000	\$1,615,590,000
Total Economic Impact	15,130	\$943,720,000	\$2,995,840,000
Taxes			
Total Taxes	\$154,020,000	\$154,020,000	\$330,982,825

Some details may not add due to rounding

The U.S. Scrap Recycling Industry Creates Jobs in the Hon. Tom McMillin's District (MI-15)

	Jobs	Wages	Economic Impact
Direct Impacts			
Scrap Recyclers	10	\$458,228	\$1,512,613
Brokers	-	\$-	\$-
Total Direct Impacts	10	\$458,228	\$1,512,613
Supplier Impacts			
Agriculture	4	\$109,240	\$635,401
Mining	-	\$1,510	\$8,277
Construction	1	\$31,161	\$64,326
Manufacturing	5	\$450,497	\$2,204,338
Transportation & Communication	1	\$76,850	\$312,873
Wholesaling	2	\$142,867	\$374,409
Retailing	-	\$11,261	\$25,764
Finance, Insurance & Real Estate	4	\$221,948	\$795,380
Travel & Entertainment	2	\$35,170	\$98,603
Business & Personal Services	14	\$787,335	\$1,451,629
Government	-	\$16,343	\$35,262
Total Supplier Impacts	33	\$1,884,183	\$6,006,260
Induced Impacts			
Agriculture	1	\$23,908	\$158,016
Mining	-	\$1,973	\$8,351
Construction	-	\$26,024	\$55,069
Manufacturing	3	\$216,463	\$1,428,719
Transportation & Communication	1	\$57,113	\$244,392
Wholesaling	2	\$139,453	\$366,911
Retailing	14	\$414,196	\$978,177
Finance, Insurance & Real Estate	7	\$428,292	\$2,093,516
Travel & Entertainment	6	\$124,739	\$390,535
Business & Personal Services	31	\$1,328,580	\$2,511,767
Government	-	\$14,765	\$32,576
Other	-	\$5,076	\$34,761
Total Induced Impacts	65	\$2,780,580	\$8,302,790
Total Economic Impact	104	\$5,122,890	\$15,821,663

Some details may not add due to rounding

The U.S. Scrap Recycling Industry Creates and Supports Jobs in the United States

	Jobs	Wages	Economic Impact
Direct Impacts			
Scrap Recyclers	134,750	\$8,996,870,000	\$31,016,370,000
Brokers	2,880	\$184,290,000	\$1,808,630,000
Total Direct Impacts	137,630	\$9,181,160,000	\$32,825,000,000
Supplier Impacts			
Agriculture	16,901	\$629,819,157	\$2,860,755,502
Mining	1,375	\$234,797,973	\$1,046,134,966
Construction	2,429	\$147,932,148	\$290,004,281
Manufacturing	16,836	\$1,238,843,829	\$8,374,710,503
Transportation & Communication	11,413	\$1,006,036,221	\$4,085,521,864
Wholesaling	6,748	\$533,729,683	\$1,405,860,527
Retailing	1,034	\$32,543,364	\$77,681,724
Finance, Insurance & Real Estate	18,724	\$1,227,283,091	\$4,045,400,231
Travel & Entertainment	10,646	\$271,634,804	\$720,300,729
Business & Personal Services	42,859	\$2,283,895,428	\$4,352,544,209
Government	3,524	\$268,527,376	\$639,896,326
Total Supplier Impacts	122,495	\$8,289,905,006	\$27,898,810,000
Induced Impacts			
Agriculture	4,465	\$87,721,483	\$527,489,185
Mining	509	\$91,665,591	\$412,063,179
Construction	1,884	\$102,466,672	\$215,733,867
Manufacturing	10,209	\$787,061,574	\$5,677,340,075
Transportation & Communication	7,972	\$703,126,205	\$2,872,028,572
Wholesaling	6,435	\$509,007,255	\$1,340,740,887
Retailing	32,043	\$992,036,621	\$2,389,782,134
Finance, Insurance & Real Estate	27,092	\$1,776,441,806	\$8,180,965,302
Travel & Entertainment	24,853	\$593,008,403	\$1,696,585,541
Business & Personal Services	70,160	\$3,189,691,849	\$5,996,885,377
Government	2,600	\$199,083,142	\$478,745,310
Other	785	\$20,944,120	\$127,046,312
Total Induced Impacts	186,010	\$12,052,250,000	\$24,813,410,000
Total Economic Impact	425,140	\$21,463,450,006	\$90,639,220,000
Taxes			
	Federal Taxes	State and Local Taxes	Total Taxes
Business Taxes	\$6,073,226,860	\$1,263,131,200	\$7,336,358,062

Some details may not add due to rounding

STATE OF MICHIGAN
HOUSE OF REPRESENTATIVES
COMMITTEE ON REGULATORY REFORM
NOTICE OF HEARING ON HB 4593, 4594 AND 4595

MATERIAL PRESENTATION BY THE
EXECUTIVE COMMITTEE OF THE MICHIGAN CHAPTER OF THE
INSTITUTE OF SCRAP RECYCLING INDUSTRIES

1. Funding for enhanced law enforcement.
2. Reporting to law enforcement of purchases of catalytic converters, air conditioners, condensers and coils versus proposed three business day wait for payment by mail or electronic transfer.
3. Preemption.
4. Prohibition of delivery of scrap by other than a licensed motor vehicle.
5. Voluntary reporting of an errant purchase. Malfunction of electronic record keeping system.
6. Treble damage applicability to material being the subject of a purchase transaction.
7. Exclusion of a governmental unit from the definition of a scrap metal dealer.
8. Language edit for consistency.

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NOTICE OF HEARING ON HB 4593, 4594 AND 4595

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EXECUTIVE SUMMARY

Below is a brief summary of the issues identified in the attached materials. Each tab provides solutions to the matters discussed below.

Tab 1. Funding for Enhanced Law Enforcement.

We have indicated at each discussion we have had on the proposed legislation that the package of bills lacked the key component of a funding mechanism for enhanced law enforcement. We must provide our law enforcement community with not only the tools to combat metals theft but the resources to do so as well. The oversight in providing our law enforcement community with the funding to address this problem is the primary reason we are again addressing metals theft, a mere four years after the effective date of the Non-ferrous Metal Regulatory Act. Our proposal for a non-budgetary source funding mechanism is discussed in Tab 1. The proposed bills do not provide any funding mechanism to assist provide resources for law enforcement.

Tab 2. Reporting of Purchases of Listed Materials to Law Enforcement Agencies.

Cooperation and collaboration with our state and local law enforcement community is a must to achieve measurable success in reducing metals theft. Our proposal which had been communicated to the bill's sponsors but which has not been adopted in Substitute for HB 4594, would require scrap metal dealers to report on some interval basis its purchase of the identified items being catalytic converters, copper wire, air conditioners, air conditioner evaporator coils or condensers or parts of air conditioner evaporator coils and condensers. The purpose of reporting those purchases would be to assist our law enforcement community in developing trends of these transactions and identifying those persons who are selling these materials. This information would be an invaluable tool in identifying those persons whose activity would suggest impropriety and would likely lead to the arrest of those persons when facts so dictate.

Substitute HB 4594 suggests that a better route in this regard is to merely hold payment for three business days and after the three day waiting period to forward payment only by mail or by electronic transfer to the seller's bank. The bill's proposal will do nothing to assist law enforcement in gathering and using relevant information but it will add

significant administrative requirements and costs to those scrap metal dealers who have complied with current law and will comply with the law if changed.

Tab 3. Preemption

Ferrous and non-ferrous metals are commodities sold across Michigan, the United States and globally. These materials are bought, sold and transported across the state, crossing city, township and county lines. In order to effectively find solutions to the problem of metal theft across our state, sellers and buyers of these materials require a uniform set of rules under which to operate. A uniform set of rules will substantially assist law enforcement training, leading to enhanced effective law enforcement. Absent uniformity, various local ordinances which differ among themselves and from the state rules will have the effect of directing the flow of scrap metal and the business that operate in this industry to locales in the state other than would be dictated by economic and market considerations. Proposed new section 19 is provided.

Tab 4. Prohibition of Delivering Material by Other Than a Motor Vehicle.

Under current law, the scrap metal dealer is required to obtain the following information:
Name and address of the seller.

Copy of the seller's identification which must include a photo of the seller.

License plate number of the vehicle delivering the material.

Date and time of the transaction.

Weight, quantity and volume of the material.

Consideration paid and the method of payment.

Thumbprint of the seller.

Signed statement from the seller that he or she is the owner of the material.

The proposed bill does not require any additional identifying information regarding the seller other than the seller's picture being taken when receiving payment. However, the seller's picture is not required under the proposed three day delay payment requirement. The proposed bill does require the scrap metal dealer to record the following additional information: (a) the name of the scale operator at the scrap metal dealer's locale, (b) the name of the person authorizing the purchase of the scrap metal on behalf of the scrap metal dealer (c) photographic or digital image of the seller except when the three day delay provision applies and (c) a photographic or digital image of the scrap metal.

The proposed new requirement in Subdivision (F) which would prohibit the purchase of scrap metal unless it is delivered in a licensed vehicle does not provide any additional identifying seller information, discriminates against those surviving at society's lower economic strata and the handicapped. An analysis is required whether Subdivision (F) would violate The Americans with Disabilities Act.

Tab 5. Self-Reporting

The package of bills increases the regulatory requirements applicable to scrap metal dealers. As with all human endeavors, mistakes will be made dictating the need for an allowance for a scrap metal dealer to self-report an errant purchase upon discovery. Further, for those scrap metal dealers who keep the records required under Section 7 electronically, the bills must acknowledge, that those systems will malfunction from time to time. It is strong public policy to encourage steadfast compliance but also not to punish the scrap metal dealer who is conscientiously addressing these issues.

Tab 6. Treble Damages.

Current law provides a civil remedy for treble damages in specified circumstances. We are not proposing that a treble damage remedy be removed from the law. However, with respect to a purchase by a scrap metal dealer, the treble damage provision must be limited to the value of the items purchased.

Tab 7. Governmental Unit Engaging in the Business of the Purchase and Sale of Scrap Metal.

We should not encourage any governmental unit to engage competitively with its citizens. If a governmental unit should enter the business of purchasing and selling scrap metal, it must be obligated to comply with the same set of rules as are applicable to others who engage in this activity in the state.

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MATERIAL PRESENTATION BY THE
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Funding for Enhanced Law Enforcement.

We have indicated at each discussion we have had on the proposed legislation that the package of bills lacked the key component of a funding mechanism for enhanced law enforcement. We must provide our law enforcement community with not only the tools to combat metals theft but the resources to do so as well. The oversight in providing our law enforcement community with the funding to address this problem is the primary reason we are again addressing metals theft, a mere four years after the effective date of the Non-ferrous Metal Regulatory Act.

A. Property Insurance Premium.

During one of our meetings with Governor Snyder's staff, we were provided a summary of the positive effect that the Automotive Theft Prevention Authority ("ATPA") has had across the state on reducing automobile theft. We expect that the policy behind the ATPA was that all of us in the state who own cars were subject to the risk of having them stolen we should all chip in in the effort to reduce automobile theft. Likewise, all of us in the state who own property are subject to the risk of metals theft. Following that model, we have proposed that a similar unit be established funded through the collection of \$1 or \$2 on each property insurance policy issued in the state. The funds collected would be granted to local communities, without the requirement of a 50% match currently mandated under the ATPA, which grant would require that the funds be used only for dedicating police officers to investigate and arrest, where appropriate, those who are engaging in metal theft. We strongly believe that with enhanced law enforcement, metals theft claims would reduce dramatically resulting in lower property policy premiums.

B. Scrap Dealer Registration Fee.

We also proposed an additional funding source being an annual registration fee per locale of those in the business of purchasing and selling metals. The registration fee would also assist law enforcement personnel in identifying those facilities who are at least initially aware of their responsibilities under the Act. Presumably if a locale does not bear the registration certificate, they are likely not otherwise complying with the Act.

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Substitute For HB 4594
Section 5(1)
Subdivision (B)
Page 7 line 23

Reporting of Certain Purchases

We have raised as a critical issue the need to enhance our law enforcement community in enforcing the laws addressing metals transactions. We have proposed funding mechanisms to do so.

We do believe that cooperation and collaboration with our state and local law enforcement community is a must to achieve measurable success in reducing metals theft. Our proposal which had been communicated to the bill's sponsors but which has not been adopted in Substitute for HB 4594, would require scrap metal dealers to report on some interval basis its purchase of the identified items being catalytic converters, copper wire, air conditioners, air conditioner evaporator coils or condensers or parts of air conditioner evaporator coils and condensers. The purpose of reporting those purchases would be to assist our law enforcement community in developing trends of these transactions and identifying those persons who are selling these materials. That information would in our view be an invaluable tool in identifying those persons whose activity would suggest impropriety and would likely lead to the arrest of those persons when facts so dictate.

Substitute HB 4594 suggests that a better route in this regard is to merely hold payment for three business days and after the three day waiting period to forward payment only by mail or by electronic transfer to the seller's bank.

In our meetings with the bill sponsors, they have stated that the waiting period is primarily directed to thwart the sale of metal by drug users. That statement first assumes that drug users have stolen the metal being offered for sale. Even if that were true in part, we find the bills sponsors' argument flawed for it assumes that a drug user will not steal metal to address his or her needed fix. In the real world, what will likely happen if the three day waiting period is adopted, is that he or she will find a fence to sell the metal to and the benefit of the detailed record keeping required under the law would be meaningless as to identifying by those records the individual who had stolen the material.

We have proposed that with respect to the identified items being air conditioners and components, catalytic converters, and insulated copper wire, that scrap metal dealers report their purchases of these items to designated policing authorities. We believe that that process will prove dramatically more beneficial in catching those who are engaging in wrongful activity. By way of example, if Mr. Z sells a catalytic converter to yard A on Tuesday and Mr. Z does not show up on the reporting data base selling a catalytic converter for 18 months, it is more than likely that Mr. Z is not engaging in wrongful conduct. However, if Mr. Z sells a catalytic converter to yard A, B and C on Tuesday, yards D, E and F on Wednesday, yard G Thursday, it is more than likely that Mr. Z is engaging in wrongful activity and the policing agencies would then be able to track those transactions and highlight Mr. Z's activity and do what policing agencies do when they have this information.

As to the copper wire component, we ask the Committee to consider the commercial reasonableness of requiring that payment be delayed and mailed. The cost burden to the scrap metal dealer would be onerous. It is estimated that it costs in excess of \$6.50 to process and mail a check. Of course, the additional costs that would include be incurred to stop payment on an issued check, which would include the administrative costs of reversing the check on the dealer's books, reissuing a new check and incurring the bank charges, exceeding \$20 per check, in ordering a stop payment, when the seller claims it never received the initial check. Electronic transfer to an account also carries additional costs.

By way of example, in a transaction of mixed metals totaling \$50 which includes 5 pounds of extension cords (insulated copper wire) comprising \$8 of the \$50 transaction, the scrap metal dealer under HB 4594 and Substitute 4594 would be required to incur the cost of issuing a check or wire transferring funds far in excess of the value of the copper purchased, surely an absurd commercial result. The scrap metal dealer would be better off refusing to purchase the extension cords which would likely find their way into the state's landfills.

Further, to avoid regulatory oversight on extension and lamp cords and like material that only that copper wire which is 1/8th in diameter and thicker would be so subject.

We strongly urge the committee therefore to adopt the following as a substitute to Subsection (B) which we believe will have a greater impact on reducing metal theft and is commercially appropriate.

(B) "A scrap metal dealer shall forward to (designated law enforcement) at such e-mail address or street address as is directed from time to time by the same not later than the close of business on the next business day after its knowing purchase of any of the items described in subsections (i), (ii) or (iii) below the following information:

- Name and address of the seller.
- Description of the material purchased.
- The quantity/weight purchased and the date and time of purchase.

- The license plate of the vehicle used by the seller in delivering said items.”

The forgoing information is exempt from disclosure as a public record under MCL 15.243(d).

- (i) Catalytic converters, unless the seller is an automotive recycler as defined in section 2A of the Michigan Motor Vehicle Code, or is an industrial or commercial customer.
- (ii) Air conditioners, air conditioner evaporator coils or condensers, or readily identifiable parts of air conditioners, evaporator coils and condensers.
- (iii) Copper wire, including copper wire that has been burned in whole or in part to remove the insulation therefrom provided the copper wire, excluding any insulation or covering, is 1/8th inch in diameter or larger.

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MATERIAL PRESENTATION BY THE
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Substitute For HB 4593
Page 7 line 25

Ferrous and non-ferrous metals are commodities sold across Michigan, the United States and globally. These materials are bought, sold and transported across the state, crossing city, township and county lines. In order to effectively find solutions to the problem of metal theft across our state, sellers and buyers of these materials require a uniform set of rules under which to operate. A uniform set of rules will substantially assist law enforcement training, leading to enhanced effective law enforcement. Absent uniformity, various local ordinances which differ among themselves and from the state rules will have the effect of directing the flow of scrap metal and the business that operate in this industry to locales in the state other than would be dictated by economic and market considerations. Consequently, with the addition of ferrous metal to the regulatory coverage under this package of bills if enacted, the act must contain a preemption provision as new Section 19 as follows:

SEC 19. BEGINNING ON THE EFFECTIVE DATE OF THIS ACT, THIS ACT ENTIRELY PREEMPTS AND SUPERSEDES ANY LOCAL ORDINANCE, REGULATION OR RULE THAT IMPOSES CONFLICTING, DIFFERENT OR ADDITIONAL STANDARDS OR REQUIREMENTS THAN THOSE CONTAINED IN THIS ACT ADDRESSING THE PURCHASE OR SALE OF FERROUS OR NON-FERROUS METALS OR THE PERSONS ENGAGED IN SAID ACTIVITIES. AS SUCH, A LOCAL UNIT OF GOVERNMENT SHALL NOT ENACT, ADOPT, MAINTAIN OR ENFORCE AN ORDINANCE, REGULATION OR RESOLUTION WHICH IS PREEMPTED AND SUPERSEDED AS ABOVE PROVIDED. THE FOREGOING PREEMPTION SHALL NOT PROHIBIT A LOCAL UNIT OF GOVERNMENT FROM ADOPTING ORDINANCES OR REGULATIONS ADDRESSING THE ZONING OF BUSINESS ESTABLISHMENTS OR THE LICENSING OF BUSINESSES ENGAGED IN THE PURCHASE OF FERROUS OR NON-FERROUS METALS PROVIDED THE STANDARDS FOR THE ISSUE OF SAID LICENSE DO NOT IMPOSE CONFLICTING, DIFFERENT OR ADDITIONAL STANDARDS OR REQUIREMENTS. THE FOREGOING SHALL NOT PROHIBIT A LOCAL UNIT OF GOVERNMENT FROM ENACTING ORDINANCES PROVIDING FOR CRIMINAL PENALTIES FOR THE VIOLATION OF THIS ACT OR FOR THE THEFT OR CONVERSION OF PROPERTY.

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Substitute For HB 4594

Prohibition of delivery of scrap metal by other a licensed motor vehicle.

Section 5(1)

Subdivision (F)

Page 9 lines 18 thru 22

See also edits to Section 7(1) Subdivision (C).

Under current law, the scrap metal dealer is required to obtain the following information:

Name and address of the seller.

Copy of the seller's identification which must include a photo of the seller.

License plate number of the vehicle delivering the material.

Date and time of the transaction.

Weight, quantity and volume of the material.

Consideration paid and the method of payment.

Thumbprint of the seller.

Signed statement from the seller that he or she is the owner of the material.

The proposed bill does not require any additional identifying information regarding the seller other than the seller's picture being taken when receiving payment. However, the seller's picture is not required under the proposed three day delay payment requirement. The proposed bill does require the scrap metal dealer to record the following additional information: (a) the name of the scale operator at the scrap metal dealer's locale, (b) the name of the person authorizing the purchase of the scrap metal on behalf of the scrap metal dealer (c) photographic or digital image of the seller except when the three day delay provision applies and (c) a photographic or digital image of the scrap metal.

The proposed new requirement in Subdivision (F) which would prohibit the purchase of scrap metal unless it is delivered in a licensed vehicle does not provide any additional identifying seller information, discriminates against those surviving at society's lower economic strata and the handicapped. An analysis is required whether Subdivision (F) would violate The Americans with Disabilities Act.

Subdivision (F) should be deleted and Subdivision (G) re-lettered as (F).

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Substitute For HB 4593
Section 7(1)
Subdivision (C)
Page 3 line 1

Prohibition of delivery of scrap metal by other a licensed motor vehicle.

Add the words "if delivered by a vehicle" after the word "metal".

Subdivision (C) would thereafter read:

(C) The license plate number of the vehicle that delivered the scrap metal, if delivered by vehicle.

See comments to HB 4594 Section 5(1) Subdivision (F) page 9 lines 20 thru 24.

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Substitute For HB 4593
New Section 13(3)
Page 7 line 9

The package of bills increases the regulatory requirements applicable to scrap metal dealers. As with all human endeavors, mistakes will be made dictating an allowance for a scrap metal dealer to self-report an errant purchase upon discovery of the same.

The following additional section needs to be added as Section 13(3):

NOTWITHSTANDING THE PROVISIONS OF SUBDIVISION (1) OR (2) ABOVE, ANY SCRAP METAL DEALER WHO VOLUNTARILY REPORTS TO A LOCAL OR STATE POLICING AGENCY OF ITS PURCHASE OF SCRAP METAL WHICH BUT FOR THIS SUBSECTION WOULD CONSTITUTE A VIOLATION OF THIS ACT, SHALL NOT HAVE VIOLATED THIS ACT REGARDING SAID PURCHASE PROVIDED THAT THE SCRAP METAL DEALER DELIVERS TO THE LOCAL OR STATE POLICING AGENCY THE RECORDS REQUIRED UNDER SECTION 7 WITH RESPECT TO SAID PURCHASE AND MAKES SUCH PROPERTY AVAILABLE FOR DELIVERY TO THE AGGRIEVED PARTY OR IF SAID PROPERTY IS NO LONGER AVAILABLE FOR DELIVERY, MAKES OTHER APPROPRIATE AND REASONABLE RESTITUTION.

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Substitute For HB 4593
Section 13(1)
Page 6 line 21

For those scrap metal dealers who are keeping the records required under Section 7 electronically, these systems, as with all electronic systems, may malfunction. To cover this potential, the following must be added to Subsection 1:

FOR PURPOSES OF THE FOREGOING, A SCRAP METAL DEALER WHO MAINTAINS THE RECORDS REQUIRED BY SECTION 7 IN ELECTRONIC FORM, SHALL NOT BE SUBJECT TO PROSECUTION UNDER THIS SUBDIVISION, IF SAID ELECTRONIC SYSTEM MALFUNCTIONS AND, FOLLOWING KNOWLEDGE OF THE MALFUNCTION, THE SCRAP METAL DEALER DILIGENTLY PURSUES REPAIR AND PROCEEDS TO IMPLEMENT MANUAL SYSTEMS FOR MAINTENANCE OF THE RECORDS REQUIRED TO BE MAINTAINED UNDER SECTION 7. IF A PROSECUTION IS BROUGHT UNDER THIS SUBDIVISION, THE SCRAP METAL DEALER MAY NOT BE FOUND GUILTY IF THE SCRAP METAL DEALER HAS OFFERED ADEQUATE PROOFS THAT THE SCRAP METAL DEALER DILIGENTLY PURSUED REPAIR OF THE MALFUNCTION OF SAID ELECTRONIC SYSTEM AFTER KNOWLEDGE OF THE MALFUNCTION AND HAS PROCEEDED TO IMPLEMENT MANUAL SYSTEMS FOR MAINTENANCE OF THE RECORDS REQUIRED UNDER SECTION 7.

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Substitute For HB 4593

Section 17 (2)
Page 7 lines 12 thru 24

Under current law, a seller or a dealer is responsible for treble damages for having violated the act and the property in question turns out to have been stolen. Firstly, treble damages could be awarded as against a dealer even if the dealer did not know or did not have reason to know the property purchased was stolen. Secondly, a dealer could be responsible for treble damages of the value of the whole property stolen even if the dealer had purchased a small component of the stolen property.

We proposed the language below to correct this subsection. The subsection has been copied with our changes highlighted:

IF THE COURT IN AN ACTION DESCRIBED IN SUBSECTION (1)

FINDS THAT THE VIOLATION INCLUDED THE PURCHASE OR SALE OF STOLEN

PROPERTY, AND THE FACT FINDER DETERMINES THAT THE SELLER, IF THE
SELLER IS THE DEFENDANT IN THE ACTION, OR THE SCRAP METAL DEALER,
IF THE SCRAP METAL DEALER IS THE DEFENDANT IN THE ACTION, KNEW OR
SHOULD HAVE KNOWN THAT THE PROPERTY WAS STOLEN, **THE** court shall
award treble damages: **(i) AS AGAINST THE SELLER FOR THE VALUE OF**
THE PROPERTY SOLD AND (ii) AS AGAINST THE SCRAP METAL DEALER, FOR
THE VALUE OF THE PROPERTY PURCHASED BY THE SCRAP METAL
DEALER. ~~nonferrous metal article. The court may award costs~~

~~regarding any aspect of an action brought under subsection (1). As~~

used in this subsection, "value of the ~~nonferrous metal article~~
PROPERTY stolen" means the greatest of the following:

(A) The replacement cost of the ~~article.~~**PROPERTY** SOLD, IN THE
CASE OF THE SELLER, OR PURCHASED IN THE CASE OF THE SCRAP METAL
DEALER.

(b) The cost of repairing the damage caused by the larceny of
~~that article.~~**THE PROPERTY**, BUT ONLY AS TO THE PERSON WHO IS FOUND
TO HAVE STOLEN THE PROPERTY.

(c) The total of subdivisions (a) and (b).

STATE OF MICHIGAN
HOUSE OF REPRESENTATIVES
COMMITTEE ON REGULATORY REFORM
NOTICE OF HEARING ON SUBSTITUTES FOR
HB 4593, 4594 AND 4595

MATERIAL PRESENTATION BY THE
EXECUTIVE COMMITTEE OF THE MICHIGAN CHAPTER OF THE
INSTITUTE OF SCRAP RECYCLING INDUSTRIES

Substitute For HB 4594
Section 3(l)
Page 6 line 7

Exclusion of a governmental unit from the definition of scrap metal dealer.

We do not believe that any governmental unit should go into the metal recycling business, but if one governmental unit does so, it must be subject to the same requirements as non-governmental unit scrap metal dealers. Therefore, the last sentence of subparagraph (l), being "The term does not include a governmental unit that buys or sells scrap metal" must be deleted.

STATE OF MICHIGAN
HOUSE OF REPRESENTATIVES
COMMITTEE ON REGULATORY REFORM
NOTICE OF HEARING ON HB 4593, 4594 AND 4595

MATERIAL PRESENTATION BY THE
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INSTITUTE OF SCRAP RECYCLING INDUSTRIES

HB 4594
Section 3
Subdivision (D)
Page 3 line 21.

The phrase, "or receiving metal property." Should be replaced with "or receiving ferrous or non-ferrous metal."